

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSE LECHUGA,
Plaintiff,
v.

No. C-09-1601 MMC

**ORDER DENYING PLAINTIFF'S MOTION
FOR TEMPORARY RESTRAINING
ORDER**

LABORERS INTERNATIONAL UNION,
LOCAL UNION 304,
Defendant.

Before the Court is plaintiff Jose Lechuga's Motion for Temporary Restraining Order, filed April 13, 2009, by which plaintiff seeks an order enjoining defendant from prohibiting plaintiff from entering defendant's union halls. Having read and considered the papers filed in support of the motion, the Court rules as follows.

A plaintiff seeking preliminary injunctive relief "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." See Winter v. Natural Res. Def. Council, 129 S. Ct. 365, 374 (2008). Here, on the record before the Court at this time, the Court cannot conclude plaintiff has demonstrated a likelihood of irreparable harm.¹ Although plaintiff states his "being [at

¹Contrary to plaintiff's argument, a preliminary injunction may not issue based only on a "possibility" of irreparable harm. See Winter, 129 S. Ct. at 375-76.

1 defendant's union halls] and socializing with other Union members helps [him] to get work"
2 (see Ham Decl. Ex. D at unnumbered 6 (Decl. Jose Lechuga in Supp. Response to Pet. of
3 Employer for Injunction) ¶ 11), plaintiff also states defendant "has a system of dispatching
4 work to its members using a list" and that defendant "is required to dispatch work to its
5 members on this list in order" (see id. ¶ 4). Further, to the extent plaintiff argues that, in
6 practice, defendant does not follow the list, plaintiff has not asserted defendant dispatches
7 work in a more favorable manner to members who are present at the halls, but, rather, that
8 defendant has been "accepting money from Union members to be favored on the list."
9 (See id. ¶ 5.)

10 Accordingly, plaintiff's motion for a temporary restraining order is hereby DENIED.
11 Plaintiff shall notice any motion for a preliminary injunction in compliance with the Civil
12 Local Rules of this district. See Civ. L.R. 7-2(a) (providing "motions must be filed, served
13 and noticed in writing on the motion calendar of the assigned Judge for hearing not less
14 than 35 days after service of the motion").

15 **IT IS SO ORDERED.**

16
17 Dated: April 15, 2009


MAXINE M. CHESNEY
United States District Judge